IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 8156 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ABID @ DANGO,S/O.IQBALBHAI LUHAR - Applicant(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR BHARGAV HASURKAR for Applicant(s) : 1,
PUBLIC PROSECUTOR for Respondent(s) : 1,
MR MT SAIYAD for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 10/08/2007

ORAL JUDGMENT

Rule. Shri Mengdey, learned APP waives service of rule on behalf of the respondent State and Shri Saiyad, learned advocate waives service of rule on behalf of the respondent No.2.

2. By way of this application u/s 482 ofr Criminal Procedure Code, the petitioner, - original accused No.1 has prayed for an appropriate order to quash and set aside the complaint/FIR being C.R. No. I 139 of 2007 registered with Danilimda Police Station.

A criminal complaint is filed by the respondent No.2 herein Nafisabanu wife of the petitioner with the Danilimda Police Station on 8-7-07 being C.R. No. I 139 of 2007 for the offence u/s 498-A, 342, 323, 294 and 506(2) of the IPC r/w provisions of the Dowry Prohibition Act. At the outset, the petitioner as well as the respondent No.2 withdrew all the allegations made against the police authorities/Investigating Officer made in the affidavit of the respondent No.2 dated 26th July 2007 and seeks permission to delete the same. Permission is accordingly granted. The learned advocates appearing on behalf of the parties have jointly submitted that the parties have settled the dispute amicably and the respondent No.2 is now residing with the petitioner and they are staying happily and that there is no dispute between the petitioner and the respondent No.2 and it has been decided not to proceed further with the criminal complaint. The learned advocates appearing on behalf of the parties have relied upon the decision of the Hon'ble Supreme Court in the case of ***B.S. Joshi V. State of Haryana and another reported in 2003 SCC 848*** in support of their submission to quash and set aside the complaint in view of the present facts and

circumstances.

3. A further affidavit of the petitioner is placed on record and it is submitted that the respondent No.2 is residing with the petitioner and that there were some quarrel between them and therefore, the respondent No.2 had filed the complaint on 8-7-07 with Danilimda Police Station and that the dispute between them have been finally settled and that they are residing together happily. The respondent No.2 Nafisabanu is also personally present in the Court and on being asked by the Court, she has categorically confirmed what is stated in the affidavit of the petitioner dated 9-8-07 and has submitted that both the petitioner and respondent No.2 are residing/staying together happily and there is no dispute between them. She has also submitted that she has no objection, if the impugned complaint/FIR is quashed and set aside.

4. Considering the aforesaid facts and circumstances of the case and the averments in the application as well as considering the affidavit of the petitioner dated 9-8-07 as well as the statement of the respondent No.2 before the Court and considering the decision of the Hon'ble Supreme Court in the case of ***B.S. Joshi (supra)***, when the parties have settled the dispute and they are residing together happily, to continue the criminal proceedings would not be in the interest of parties and would unnecessary harass the parties. Even,

otherwise, considering the stand taken by the respondent No.2 now, there are bleak chances of conviction of the petitioner, as in view of the changed circumstances, the respondent No.2 now might not support the prosecution. Under the circumstances, this is a fit case to exercise the powers u/2 482 of Criminal Procedure Code in the interest of parties.

5. For the reasons stated above, the application succeeds. The impugned complaint being C.R. No. I 139 of 2007 registered with Danilimda Police Station is hereby quashed and set aside. Rule made absolute.

(M.R. Shah, J.)

shekhar/-